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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,693	10/30/2000	Michael L. Howard	1351 P	7042

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EXAMINER

PATEL, NITIN C

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/699,693

Applicant(s)

HOWARD ET AL.

Examiner

Nitin C. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10, and 11.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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DETAILED ACTION

1. This is in responsive to amendment filed on March 18, 2004.
2. Claims 1 – 20 are presented for the examination.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. The term "another" in line 13, and "the other" in line 19 on page 3; and "the other" in line 2 of page 4 in claim 6 is a relative term, which renders the claim indefinite. The term "another or other" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Examiner suggests to replace with ...first, second, third...electronic device.
5. Examiner has prosecuted the application and rejection made with the assumption of having "another electronic device" same as "the other electronic device".

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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7. Claims 1 – 20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Tang et al. [hereinafter as Tang], US 2001/0041943 A1[cited in previous office action].

8. As to claims 1, and 10, Tang discloses a system and method for remote in system programming of device [remote system] over pager network [wireless network, a radio channel, fig. 2, and 6 – 8] comprising:

- a. a communication port [803, 804, parallel, and serial] for electronically connecting the electronic device[800] to a first electronic device [device connected to 803 port or 804 port] that is separate from and distinct [it is obvious that peripheral device is separate and distinct from host] from the electronic device [800];
- b. a data transceiver [601];
- c. a processor [801, microprocessor core] with the communication port [803, 804] for communicating through the communication port [it is inherent to the system] with the first device [peripheral device], the processor also being in electronic communication [through control 805] with the data transceiver [601] for communication with pager network [wireless network];
- d. reprogrammable memory [609, EPROM] programmed with instructions to cause the device to receive new program code from the pager network [wireless network] [programming signals are transmitted through an antenna] and reprogram the memory [609] with the new program code for communicating [communicating to the device through the communication port is a part of functionality of program code] to the with the first electronic device [peripheral device] through the communication port [803 or 804] [para 006, 0007, 0008, page 1; para 0023, 0028 on page 2].

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9. As to claim 6, Tang discloses a portable and handheld device capable of communications over a pager network [[wireless network, a radio channel] and device being remotely reprogrammable [in-system programmable system which can be reprogrammed by remote access, para 0006 on page 1] reprogrammed by remote device] over the pager network [wireless network, a radio channel] to acquire new [updated] functionality:

- a. a substantially closed housing [it is inherent to cellular system];
- b. a data transceiver [601];
- c. an antenna [602];
- d. a single-board computer located inside a housing [it is inherent to cellular system] comprising:
 - (i) a microcontroller [600] that includes a processor [605, microprocessor], RAM [607], and Flash memory [609, EPROM];
 - (ii) a serial port [804]
 - (iii) a serial transceiver [it is inherent to the system with serial port for serial communication];
 - (iv) a serial connection [404, TXD, RXD];
 - (v) instructions stored in flash memory [609, EPROM] to cause the single board computer to receive new program code [programming signal received through antenna] from pager network through the data transceiver board and to reprogram flash memory with new program code such that once reprogrammed the device has new [upgraded] functionality for communicating [communicating to the device through the communication port is a part of functionality of program code and is upgraded with new

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program code] with the another electronic device [peripheral device] through the serial port [804] [para 006, 0007, 0008, page 1; para 0023, 0028 on page 2][fig. 7, 8].

10. As to claim 15, Tang discloses a portable device that is reprogrammable through a pager network [wireless network, a radio channel], the device comprising:

- a. means for processing [605, microprocessor];
- b. means for communicating [602, antenna] with a first electronic device [device connected to 803 port or 804 port] that is separate and distinct from the electronic device [it is obvious that peripheral device is separate and distinct from host];
- a. means for storing data [607, 608, RAM, and EPROM]; and
- c. means for [program instructions in EPROM] causing the device to receive new program code from the pager network [wireless network, a radio channel] through the means for communicating [601, 602, transmitter/receiver, antenna] with pager network and to reprogram the means for storing data [609, EPROM] with new [updated] program code to give the device new functionality [it is inherent property of upgraded program to provide new functionality][para 0006, 0008, fig. 6].

11. As to claims 2, and 11, Tang discloses a serial port [804, serial port] for connecting the device [peripheral device] to another electronic device [800] [fig. 8].

12. As to claims 3, 7, 12, and 16, the electronic device is enclosed in a plastic snap-fit enclosure [it is inherent to cellular device].

13. As to claims 4 - 5, 13 - 14, and 17, Tang discloses a single board computer [fig. 8].

14. As to claim 18, Tang discloses the means for processing comprises a microcontroller [801, microprocessor]

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15. As to claims 8 – 9, and 19 – 20, it is inherent to microcontroller [microprocessor core] to have 8 – bit or 16 bit data.

16. Applicant's arguments filed on March 18, 2004 with amendment have been fully considered but they are not persuasive. The amendment to the claims 1, 6, 10, and 15 are not persuasive as explained above in rejection [the electronic device [800] and a first device [peripheral connected to serial or parallel port are distinct and separate from the electronic device [800]].

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nitin C. Patel whose telephone number is 703-305-3994. The examiner can normally be reached on 8:00am - 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 703-305-9717. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nitin C. Patel
April 8, 2004


THOMAS LEE
SUPERVISORY PATENT EXAMINER
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